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10 Nos. 23-05717 and 24-2319)*

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14 **UNITED STATES DISTRICT COURT**
15 **NORTHERN DISTRICT OF CALIFORNIA**
16 **SAN FRANCISCO DIVISION**

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18 **IN RE: In RE: 23ANDME, INC. CUSTOMER
19 DATA SECURITY BREACH LITIGATION**

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MDL No. 3098

**PLAINTIFFS RICHARD ROE, JOHN
Q. PUBLIC, AND JOHN DOE'S
SUGGESTIONS OF SPECIAL
SETTLEMENT MASTERS**

Judge: Hon. Edward M. Chen
Courtroom: 5, 17th Floor
Date: June 3, 2024 9:00 A.M.

This Document Relates to: ALL ACTIONS

1 Pursuant to this Court's Pretrial Order No. 1 (ECF No. 11), Plaintiffs Richard Roe, John
2 Q. Public, and Joe Doe hereby respectfully submit, through their attorneys Melissa Gardner and
3 Dorothy Antullis, recommendations concerning candidates for appointment as Special Settlement
4 Master in this litigation. We make these recommendations based upon our research, personal
5 experience, and the input and experience of other Plaintiffs' counsel at one or both of our law
6 firms.

7 **I. SHEILA BIRNBAUM**

8 Ms. Birnbaum is a mediator and arbitrator with Phillips ADR. She joined Phillips ADR
9 following a 45-year accomplished career litigating complex class actions and products liability
10 cases at leading law firms such as Skadden Arps, Quinn Emanuel, and Dechert LLP. During that
11 time, she was also a court-appointed mediator (appointed by Judge Hellerstein (SDNY)) and later
12 Special Master (appointed by then-Attorney General Eric Holder) in claims brought by families of
13 victims of the 2001 World Trade Center terrorist attack. Her biography is detailed further here:
14 <https://phillipsadr.com/our-team/sheila-birnbaum/>. Plaintiffs' counsel have negotiated complex
15 class action and mass tort class actions with Ms. Birnbaum and can attest to her deep knowledge
16 and sophistication, and her ability to find practical solutions, in such cases.

17 **II. FOUAD KURDI**

18 Mr. Kurdi is a mediator with Resolutions LLC who has successfully mediated numerous
19 high-stakes and complex disputes, including many related to the nationwide opioid crisis.
20 Additionally, he brings experience to bear in crafting creative solutions, including where a
21 defendant's ability to pay is an issue, as he has mediated several bankruptcy cases. His biography
22 is detailed here: <https://www.resolutionsllc.com/principals.htm#FKurdi>. Plaintiffs' counsel have
23 mediated complicated disputes before him and can attest to his ability to help resolve disputes.

24 **III. HON. JAY GANDHI (RET.)**

25 Judge Gandhi is a former United States Magistrate Judge for the Central District of
26 California and currently a mediator with JAMS ADR out of its Los Angeles location. As a
27 magistrate judge, he oversaw the Court's Alternative Dispute Resolution program. As a mediator,
28 Judge Gandhi has played an instrumental role in resolving privacy disputes, including the recently

1 resolved consumer class action settlement against Facebook for its alleged role in allowing third
 2 parties, including Cambridge Analytica, to access users' private information. His biography is
 3 detailed further here: <https://www.jamsadr.com/gandhi/?tab=bio>. Plaintiffs' counsel have
 4 mediated privacy class actions before him and can attest to his ability to help resolve disputes.

5 **IV. JEFFREY L. BLEICH**

6 Mr. Bleich is a Visiting Scholar at Stanford University and the Chair of the Jeff Bleich
 7 Centre for Democracy and Disruptive Technologies. He has served as the United States
 8 Ambassador to Australia (2009-2013), Special Counsel to President Obama, Special Master for
 9 the U.S. District Courts, a court-appointed federal mediator, trial and appellate counsel, a
 10 managing partner of two international law firms, and the chair of multiple corporate boards. Mr.
 11 Bleich has over three decades of experience in resolving complex domestic and international
 12 disputes, including recently in mediating a consumer class action against Facebook for its alleged
 13 violations of the Illinois Biometric Information Privacy Act. Plaintiffs' counsel can attest to his
 14 skill and expertise in conflict resolution.

15 **V. SUMMARY OF PLAINTIFFS' RECOMMENDATIONS**

16 Each of the four individuals recommended above has confirmed with Plaintiffs' counsel
 17 that they are willing and available to serve, if appointed. Each has the qualifications, skill, and
 18 expertise to create meaningful opportunities for productive settlement negotiations and to support
 19 the Court's management and resolution of this complex, important litigation.

20 Plaintiffs also would not oppose the continued involvement of mediator Randall Wulff,
 21 with whom Plaintiffs' counsel have also had positive experiences resolving class litigation,
 22 particularly in light of his familiarity with the parties and the issues here. However, as detailed in
 23 Plaintiffs' application for appointment as Co-lead Interim Class Counsel (ECF Nos. 14, 28),
 24 Plaintiffs oppose a stay for purposes of settlement discussions. *See* ECF No. 25. There may be an
 25 appropriate juncture for the Special Settlement Master to recommend that the parties stay their
 26 litigation efforts, but unless and until that time occurs, Plaintiffs believe that the expeditious
 27 progress of this litigation, in parallel with any further efforts at settlement, would be serve the
 28 interests of the Class.

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2 Dated: May 20, 2024

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4 Respectfully submitted,

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24 **ATTESTATION**

25 I, Melissa Gardner, am the ECF user whose identification and password are being used to
26 file this application. I hereby attest that Dorothy P. Antullis has concurred in this filing.

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28 /s/Melissa Gardner
1 Melissa Gardner, Esq.

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